

Exhibit S



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Transcript of David Wise

Date: January 31, 2025

Case: Headwater Research LLC -v- AT&T Services, Inc., et al.

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Transcript of David Wise
Conducted on January 31, 2025

1 (1 to 4)

<div>1</div> <div>IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS MARSHALL DIVISION</div> <div>3 HEADWATER RESEARCH LLC,) 4 Plaintiff,) 5 VS.) CASE NO.: 6 AT&T SERVICES, INC.,) 2:23-cv-00397-JRG-RSP 7 AT&T MOBILITY, LLC, AND) Lead Case 8 AT&T CORP.,) 9 Defendants.)</div> <div>10 HEADWATER RESEARCH LLC,) 11 Plaintiff,) 12 VS.) CASE NO.: 13 AT&T SERVICES, INC.,) 2:23-cv-00398-JRG-RSP 14 AT&T MOBILITY, LLC, AND) 15 AT&T CORP.,) 16 Defendants.)</div> <div>17 ----- 18 ORAL, REALTIMED, VIDEOTAPED DEPOSITION OF 19 DAVID WISE 20 JANUARY 31, 2025 21 -----</div> <div>22 JOB NO.: 570073 23 PAGES: 1 - 77 24 REPORTED BY: ANNETTE PELTIER 25</div>	<div>3</div> <div>APPEARANCES</div> <div>2 (ALL APPEARING VIA ZOOM VIDEOCONFERENCE)</div> <div>3 ON BEHALF OF THE PLAINTIFFS:</div> <div>4 KRIS DAVIS, ESQUIRE 5 Russ, August & Kabat, LLP 6 8080 N. Central Expressway 7 Dallas, Texas 75206 8 310.826.7474</div> <div>8 ON BEHALF OF THE DEFENDANTS:</div> <div>9 SCOTT HEJNY, ESQUIRE 10 McKool Smith 11 303 Colorado Street 12 Suite 2100 13 Austin, Texas 78701 14 512.692.8700</div> <div>13 ON BEHALF OF THE WITNESS:</div> <div>14 DAVID KAYS, ESQUIRE 15 Morgan, Franich, Fredkin Siamas & 16 Kays LLP 17 333 W. San Carlos Street 18 Suite 1050 19 San Jose, CA 95110 20 408.288.8288</div> <div>19 ALSO PRESENT:</div> <div>20 Lawrence Wallace, Videographer 21 Charlie McGrath, Video Tech 22 23 24 25</div>
<div>2</div> <div>ORAL, REALTIMED, VIDEOTAPED DEPOSITION OF</div> <div>2 DAVID WISE, produced as a witness at the instance 3 of the Defendants, and duly sworn, was taken in 4 the above-styled and numbered cause on 5 January 31, 2025, from 12:03 p.m. to 1:54 p.m., 6 before Annette Peltier, CSR, Texas Certified 7 Realtime Reporter, in and for the State of Texas, 8 reported by machine shorthand pursuant to the 9 Federal Rules of Civil Procedure and the 10 provisions stated on the record or attached 11 hereto. 12 13 14 15 16 17 18 19 20 21 22 23 24 25</div>	<div>4</div> <div>Index</div> <div>2 Page</div> <div>3 Appearances..... 3 4 Examination by Mr. Hejny..... 8 5 Examination by Mr. Davis..... 71 6 Adjournment..... 73 7 Signature Page..... 74 8 Court Reporter's Certificate..... 75</div> <div>9 Exhibits</div> <div>9 Number Description Page</div> <div>10 Exhibit 1 Deposition Notice..... 11 11 Exhibit 2 David Wise LinkedIn..... 13 12 Exhibit 3 Raleigh Invention Disclosure, 13 Confidentiality & Proprietary 14 Rights Agreement 15 (HW397-00094026-31)..... 20 16 Exhibit 4 January 2009 Raleigh and Paul 17 Jacobs E-Mails 18 (HW397-00102740-41)..... 24 19 Exhibit 5 2009.01.22 QC-HW Partners NDA 20 (HW397-00102740-41)..... 29 21 Exhibit 6 3.4.2009 E-Mail 22 (HW397-00051416)..... 34 23 Exhibit 7 2.25.2009 ItsOn PowerPoint 24 To QC on Best Buy E2E 25 (HW397-00018717-31)..... 40 26 Exhibit 8 2009.04.21 re: ItsOn 27 (HW397-00051418-20)..... 44 28 Exhibit 9 2009.05.06 Patent Application 29 (HW397-00051421)..... 53 30 Exhibit 10 2009.05.07 Moving Forward 31 (HW397-00051422)..... 56</div>

Transcript of David Wise
Conducted on January 31, 2025

2 (5 to 8)

<p>5</p> <p>1 Exhibit 11 2009.05.19 Release (HW397-00051424-27)..... 60</p> <p>2 Exhibit 12 June 24, 2009 Qualcomm E-Mail On Release Redlines (HW397-00102742)..... 66</p> <p>3</p> <p>4 Exhibit 13 2009.09.03 Qualcomm's Proposal (HW397-00051423)..... 68</p> <p>5</p> <p>6</p> <p>7 * * * * *</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>7</p> <p>1 Services, Inc., et al, in the United States</p> <p>2 District Court for the Eastern District of Texas,</p> <p>3 Marshall Division, Case Number</p> <p>4 2:23-cv-397-JRG-RSP.</p> <p>5 Today's date is January 31st,</p> <p>6 2025. The time on the video monitor is</p> <p>7 2:04 [sic] p.m. Central time.</p> <p>8 The remote videographer today is</p> <p>9 Lawrence Wallace, representing Planet Depos.</p> <p>10 All parties of this video</p> <p>11 deposition are attending remotely.</p> <p>12 Would counsel please</p> <p>13 voice-identify themselves and state whom they</p> <p>14 represent.</p> <p>15 MR. HEJNY: Scott Hejny from</p> <p>16 McKool Smith on behalf of AT&T.</p> <p>17 MR. DAVIS: Kris Davis from Russ,</p> <p>18 August & Kabat on behalf of Headwater Research,</p> <p>19 LLC.</p> <p>20 MR. KAYS: David Kays on behalf of</p> <p>21 the witness, David Wise.</p> <p>22 THE VIDEOGRAPHER: All right. The</p> <p>23 court reporter today is Annette Peltier,</p> <p>24 representing Planet Depos.</p> <p>25 The witness will now be sworn.</p>
<p>6</p> <p>1 EXHIBIT TECH: Thank you to</p> <p>2 everyone for attending this proceeding remotely,</p> <p>3 which we anticipate will run smoothly.</p> <p>4 Please remember to speak slowly</p> <p>5 and do your best not to talk over one another.</p> <p>6 Please be aware that we are</p> <p>7 recording this proceeding for backup purposes.</p> <p>8 Any off-the-record discussions</p> <p>9 should be had away from the computer.</p> <p>10 Please remember to mute your mic</p> <p>11 for those conversations.</p> <p>12 Please have your video enabled to</p> <p>13 help the reporter identify who is speaking. If</p> <p>14 you are unable to connect with video and are</p> <p>15 connecting via phone, please identify yourself</p> <p>16 each time before speaking.</p> <p>17 I apologize in advance for any</p> <p>18 technical-related interruptions.</p> <p>19 Thank you.</p> <p>20 THE VIDEOGRAPHER: All right.</p> <p>21 Everyone please stand by to be read onto the</p> <p>22 video record.</p> <p>23 Here begins media number one in</p> <p>24 the videotaped deposition of David Wise in the</p> <p>25 matter of Headwater Research, LLC, versus AT&T</p>	<p>8</p> <p>1 DAVID WISE,</p> <p>2 Having been first duly sworn, testified upon his</p> <p>3 oath as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. HEJNY:</p> <p>6 Q. Good morning, Mr. Wise.</p> <p>7 A. Good morning.</p> <p>8 Q. So you -- you mentioned before we started</p> <p>9 that you'd been deposed before, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. So I'll walk through some</p> <p>12 guidelines here in a minute, but obviously this</p> <p>13 is your first remote depo.</p> <p>14 Are you alone in the room where you're</p> <p>15 being deposed now?</p> <p>16 A. Yes.</p> <p>17 Q. Do you have any documents in front of you</p> <p>18 or pulled up on your computer screen?</p> <p>19 A. No.</p> <p>20 Q. Great.</p> <p>21 How many times have you been deposed</p> <p>22 before?</p> <p>23 A. Three.</p> <p>24 Q. When was the last time you were deposed --</p> <p>25 I guess the most recent deposition?</p>

Transcript of David Wise
Conducted on January 31, 2025

9 (33 to 36)

<p>33</p> <p>1 years ago, so I don't, sorry.</p> <p>2 Q. Understood.</p> <p>3 Do you recall any conversations</p> <p>4 with -- with Dr. Raleigh or Headwater following</p> <p>5 the entry of this nondisclosure agreement</p> <p>6 regarding the potential partnership between</p> <p>7 Headwater and Qualcomm?</p> <p>8 A. No.</p> <p>9 Q. Do you recall any meetings with Headwater</p> <p>10 or Dr. Raleigh?</p> <p>11 A. I don't recall any, no.</p> <p>12 Q. Do you recall any discussions as to</p> <p>13 whether Dr. Raleigh had filed or intended to file</p> <p>14 a patent application in January 2009 that would</p> <p>15 impact the relationship between Headwater and</p> <p>16 Qualcomm?</p> <p>17 MR. KAYS: And just point of</p> <p>18 clarification, Counsel, your -- discussions with</p> <p>19 Mr. Raleigh? Is that -- is that the intent of</p> <p>20 the question?</p> <p>21 MR. HEJNY: Yes. Do you recall</p> <p>22 any --</p> <p>23 MR. KAYS: Okay.</p> <p>24 MR. HEJNY: I'll restate the</p> <p>25 question.</p>	<p>35</p> <p>1 the Bates number on this document is</p> <p>2 HW397-0051416.</p> <p>3 Q. (BY MR. HEJNY) And just for your</p> <p>4 edification, mimoguy@mac.com, that e-mail address</p> <p>5 is the e-mail address for Greg Raleigh. Okay?</p> <p>6 A. Okay.</p> <p>7 Q. Who was Gina Lombardi?</p> <p>8 A. She was a senior executive at the company,</p> <p>9 at Qualcomm, at the time.</p> <p>10 Q. And what was her role at the company?</p> <p>11 A. I honestly don't recall.</p> <p>12 Q. Do you recall why you and Ms. Lombardi</p> <p>13 were teamed to work on this discussion with</p> <p>14 Dr. Raleigh and Jim Straight?</p> <p>15 A. Yeah. Let me just read this real quick.</p> <p>16 Q. Yeah, please. Any -- and just for the</p> <p>17 record, Mr. Wise, any time I put a document in</p> <p>18 front of you, you know, take your time and read</p> <p>19 through it; and I should have instructed you on</p> <p>20 that earlier. So please take a look, read</p> <p>21 through the e-mail, and then we can ask</p> <p>22 questions.</p> <p>23 A. Okay. I'm sorry, can you repeat the</p> <p>24 question?</p> <p>25 Q. Sure. Let me step back and ask you a</p>
<p>34</p> <p>1 MR. KAYS: Thank you.</p> <p>2 Q. (BY MR. HEJNY) Do you recall any</p> <p>3 conversations with Headwater or Dr. Raleigh</p> <p>4 regarding the filing of a patent application in</p> <p>5 January of 2009 that may have had some bearing on</p> <p>6 the relationship between Headwater, Dr. Raleigh,</p> <p>7 and Qualcomm?</p> <p>8 A. I don't recall.</p> <p>9 Q. Do you recall a potential intellectual</p> <p>10 property ownership dispute between Dr. Raleigh</p> <p>11 and Qualcomm?</p> <p>12 A. No.</p> <p>13 Q. Do you know anything at all about patent</p> <p>14 applications that were filed by Dr. Raleigh?</p> <p>15 A. No.</p> <p>16 Q. Okay. Let's move on to Exhibit 6, please.</p> <p>17 (Whereupon Exhibit Number 6 was</p> <p>18 marked for identification.)</p> <p>19 Q. (BY MR. HEJNY) Okay. Exhibit 6 is a</p> <p>20 March 4, 2009, e-mail from Gina Lombardi to Greg</p> <p>21 Raleigh and Jim Straight and you are copied in</p> <p>22 that e-mail.</p> <p>23 Do you see that, Mr. Wise?</p> <p>24 A. Yes.</p> <p>25 MR. HEJNY: And for the record,</p>	<p>36</p> <p>1 different question.</p> <p>2 The subject says, "ItsOn Next Steps."</p> <p>3 Are you familiar with an entity or a</p> <p>4 company called "ItsOn"?</p> <p>5 A. I recall the name, yes.</p> <p>6 Q. Were you aware that Dr. Raleigh formed</p> <p>7 ItsOn before he left Qualcomm in September</p> <p>8 of 2008?</p> <p>9 A. No.</p> <p>10 Q. Are you -- were you aware that ItsOn was a</p> <p>11 company that was owned by Dr. Raleigh?</p> <p>12 A. Yes.</p> <p>13 Q. And my first question was, do you recall</p> <p>14 why you and Ms. Lombardi were teamed together to</p> <p>15 work on this discussion with Dr. Raleigh and</p> <p>16 Mr. Straight?</p> <p>17 A. Only that I assume it's -- based on this</p> <p>18 e-mail, it's a follow-up to the -- you know,</p> <p>19 evaluating whether there was anything to be --</p> <p>20 (garbled audio).</p> <p>21 THE COURT REPORTER: I'm sorry,</p> <p>22 sir. Anything to be what?</p> <p>23 THE WITNESS: Anything to be done</p> <p>24 evaluating a partnership with the company, with</p> <p>25 ItsOn.</p>

Transcript of David Wise
Conducted on January 31, 2025

12 (45 to 48)

<p>45</p> <p>1 last page. There.</p> <p>2 Okay. So this is an April 21st, 2009,</p> <p>3 e-mail from Gina Lombardi to Jim Straight and</p> <p>4 Greg Raleigh, and you see that you're -- you are</p> <p>5 copied on this e-mail, as well, correct?</p> <p>6 A. Yes. Let me -- let me just read it.</p> <p>7 Q. Yeah, sure.</p> <p>8 A. Okay.</p> <p>9 Q. Okay. Can you see that the -- the e-mail,</p> <p>10 which is -- has the subject of "ItsOn," in the</p> <p>11 body of the e-mail, there's something called a</p> <p>12 "Seed Investment."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And was this an offer by Qualcomm to</p> <p>16 invest in ItsOn?</p> <p>17 A. Looks to be, yes.</p> <p>18 Q. Do you recall this e-mail or this</p> <p>19 potential investment by Qualcomm in ItsOn?</p> <p>20 A. Beyond the e-mail, no.</p> <p>21 Q. But in the e-mail, it looks like Qualcomm</p> <p>22 was willing to invest \$2 million plus a license</p> <p>23 to the relevant Qualcomm IP for a 20 percent</p> <p>24 stake.</p> <p>25 Do you see that?</p>	<p>47</p> <p>1 commercialization of ItsOn software on Qualcomm</p> <p>2 chips?</p> <p>3 A. Yes.</p> <p>4 Q. And the last item in that list is</p> <p>5 "resolution of IP ownership issue."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And I asked you before if you recalled a</p> <p>9 dispute between Dr. Raleigh and Qualcomm</p> <p>10 regarding an IP ownership issue.</p> <p>11 Does this refresh your recollection?</p> <p>12 A. No.</p> <p>13 Q. So as you sit here today, you have no</p> <p>14 recollection whatsoever of the ownership interest</p> <p>15 dispute between Dr. Raleigh and Qualcomm?</p> <p>16 A. Honestly, I don't.</p> <p>17 MR. HEJNY: Let's move up to the</p> <p>18 next e-mail in the chain, please.</p> <p>19 Q. (BY MR. HEJNY) And this e-mail begins at</p> <p>20 the bottom of Bates 418.</p> <p>21 And so this is an e-mail from Jim</p> <p>22 Straight, who is at Headwater, to Gina Lombardi</p> <p>23 and Greg Raleigh and you are copied.</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>
<p>46</p> <p>1 A. Yes.</p> <p>2 Q. And presumably that's a 20 percent stake</p> <p>3 in ItsOn, correct?</p> <p>4 A. I believe so.</p> <p>5 Q. And what is a "1X liquidation preference"?</p> <p>6 A. It's a -- a term associated with an</p> <p>7 investment in a private company.</p> <p>8 Q. And can you explain it to me, how it would</p> <p>9 relate to this potential agreement with ItsOn?</p> <p>10 A. It would be some sort of protection over</p> <p>11 the two-million-dollar investment in a</p> <p>12 liquidation.</p> <p>13 Q. And what is a "full ratchet</p> <p>14 anti-dilution"?</p> <p>15 A. Another term in venture investments,</p> <p>16 private companies, around protecting the value of</p> <p>17 our investment going forward as new money comes</p> <p>18 in.</p> <p>19 Q. So it would protect Qualcomm's 20 percent</p> <p>20 stake?</p> <p>21 A. Right.</p> <p>22 Q. And prevent it from being diluted?</p> <p>23 A. Yes.</p> <p>24 Q. And it looks like in this seed investment,</p> <p>25 Qualcomm would be committing to support</p>	<p>48</p> <p>1 Q. And it looks like in this portion of -- of</p> <p>2 the process, there is a due diligence going on.</p> <p>3 Do you see that?</p> <p>4 A. Can I just read the e-mail?</p> <p>5 Q. Yeah, please. Please take your time and</p> <p>6 read the e-mail.</p> <p>7 THE WITNESS: And can you just</p> <p>8 scroll up a little bit on it, so we can... yeah,</p> <p>9 that's good. Thanks.</p> <p>10 Okay. Can you scroll back up a</p> <p>11 little bit now? Okay.</p> <p>12 Q. (BY MR. HEJNY) So in this e-mail,</p> <p>13 Mr. Straight from Headwater identifies</p> <p>14 diligence -- a diligence items action list.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And do you recall any meetings with</p> <p>18 Headwater or Dr. Raleigh in which the seed</p> <p>19 investment from the first e-mail was discussed in</p> <p>20 detail?</p> <p>21 A. I don't.</p> <p>22 Q. And item (1) on the diligence items action</p> <p>23 list states that, "This week Qualcomm will</p> <p>24 transmit to ItsOn/HPI the potential prior art</p> <p>25 search results that Qualcomm believes to be</p>

<p>49</p> <p>1 relevant." 2 You see that? 3 A. Yes. 4 Q. Do you know what "prior art" is, Mr. Wise? 5 A. Not [sic] familiar with the term. 6 Q. So you don't understand the term "prior 7 art" from a -- from a patent or an IP standpoint? 8 A. No. I said I'm familiar with the term. 9 Q. Oh, I'm sorry. I misunderstood you. 10 Do you know whether Qualcomm ever sent 11 ItsOn or Headwaters the results of any prior art 12 search that was conducted as part of this 13 process? 14 A. Not beyond what we -- what's said here in 15 the e-mail. 16 MR. HEJNY: And let's scroll down 17 to item (4). Maybe scroll up to item four, 18 sorry. It's on the next page. 19 Q. (BY MR. HEJNY) Item (4) says, the "Next 20 week, Qualcomm and ItsOn/HPI will have a 21 face-to-face meeting same day or next morning 22 immediately after meetings listed in diligence 23 items (2) and (3) for Qualcomm to disclose to 24 ItsOn/HPI the facts, documents, and any other 25 information that Qualcomm possesses that Qualcomm</p>	<p>51</p> <p>1 question potentially invades the attorney/client 2 privilege, so... 3 A. I don't recall anything. 4 Q. (BY MR. HEJNY) Do you recall when 5 Qualcomm first informed Dr. Raleigh that it 6 believed it owned some portion of ItsOn's IP? 7 A. No. 8 Q. Do you understand that Qualcomm 9 consistently maintained that it had an ownership 10 interest in ItsOn's IP? 11 MR. DAVIS: Objection, form. 12 A. I don't recall beyond what we're seeing in 13 some of these e-mails. 14 Q. (BY MR. HEJNY) Do you recall any 15 discussions internally at Qualcomm as to when 16 Dr. Raleigh first invented the IP in question? 17 A. No. 18 Q. And going to the very first e-mail on the 19 first page -- 20 A. Can you hang on one second? 21 Q. Yes, please. Take your time. 22 A. I'm sorry, can you repeat the question? 23 MR. HEJNY: Can you read back the 24 question, please? 25 (Discussion with the court</p>
<p>50</p> <p>1 believes support the Qualcomm claim that it may 2 own some" or -- "some portion of ItsOn's IP." 3 Do you see that? 4 A. Yes. 5 Q. Do you recall discussions with Dr. Raleigh 6 or Ms. Lombardi regarding this ownership issue, 7 Mr. Wise? 8 A. I don't. 9 Q. Do you recall the facts, documents, and 10 any other information that Qualcomm possessed 11 suggesting that it may own some portion of 12 ItsOn's IP? 13 A. I don't recall, beyond this e-mail. 14 Q. Do you know if this meeting ever took 15 place, this face-to-face meeting? 16 A. I don't know. No reason to assume it 17 didn't, but I don't know. 18 Q. Do you recall, regardless of whether this 19 meeting took place, any -- any other evidence or 20 information that Qualcomm had that led it to 21 believe that it owned some portion of ItsOn's IP? 22 MR. KAYS: Again, I'll advise the 23 witness that to the extent such evidence or 24 knowledge was communicated to Headwater, that's 25 fair game, but as -- as framed, it -- the</p>	<p>52</p> <p>1 reporter, clarifying read-back.) 2 MR. KAYS: I don't think you'd 3 asked a question. 4 THE COURT REPORTER: Right. 5 MR. HEJNY: Let's just go back -- 6 I just want to make sure. 7 THE WITNESS: Okay. 8 MR. HEJNY: Let's go back to -- 9 THE WITNESS: I'm sorry about 10 that. 11 MR. HEJNY: I just want to make 12 sure that I didn't leave something hanging. 13 (Whereupon the requested testimony 14 was read back as follows: 15 "Do you recall any discussions 16 internally at Qualcomm as to when 17 Dr. Raleigh first invented the IP 18 in question? 19 A. No.") 20 Q. (BY MR. HEJNY) And going to the very 21 first e-mail on the first page of this string... 22 MR. HEJNY: Can you scroll up just 23 a little bit? There we go. 24 Q. (BY MR. HEJNY) And so this is the first 25 e-mail in the string, April 24th, 2009, from Gina</p>